IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8284 of 1988

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DEVENDRA ACHARYA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8284 of 1988

MR DS VASAVADA for Petitioner No. 1

Mr.N.D.GOHIL, AGP for Respondent No. 1-2

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 28/09/2004

ORAL JUDGEMENT

1. In this petition, the petitioner had prayed for appropriate writ directing the respondent no.2 to submit

the failure report to the respondent no.1 and a further direction to the respondent no.1 to take appropriate decision under Section 10(1) of the Industrial Disputes Act to make Reference to the authorities under the said Act.

2. The petitioner has stated in the petition that he had submitted a charter of demand to the Deputy Conservator of Forests, Palanpur, regarding revision of payscales, permanency etc. and since there was no response from the Deputy Conservator of Forests, the petitioner wrote a letter to the Assistant Commissioner of Labour on 11th September, 1985. It is further stated that the Assistant Commissioner of Labour has already held conciliation proceedings on 21st April, 1986, 6th May, 1986 and 12th August, 1986. It is the grievance of the petitioner that, thereafter the case was transmitted to the Deputy Commissioner of Labour, and though several sittings were held in January and February, 1987, the respondent no.2. i.e. the Deputy Commissioner of Labour has not taken any action in the conciliation proceedings. On the basis of the above factual averments, the petitioner had approached this Court in the present petition praying for a direction to the respondent no.2 to submit his report and upon receipt of such a report for a direction to the respondent no.1 to take appropriate decision under Section 10(1) of the Industrial Disputes Act regarding making of the Reference to the authorities under the I.D.Act.

3. When the matter was called out, learned A.G.P. has placed on record a communication dated 24th February, 1989 by which the Government Solicitor appearing for the State in the matter was communicated that the Competent Authority has submitted his failure report under Section 12(4) of the Industrial Disputes Act and the same has been sent to the Secretary, Government of Gujarat, Labour and Employment Department for necessary action. The learned A.G.P. is unable to state with any certainty as to the progress made in the matter thereafter. He is not in a position to state whether the Government eventually did take a decision whether to make a Reference or not. Counsel for the petitioner was also unable to supply this information to the Court.

4. Since the failure report was available as far back as in February, 1989, I am sure the Government must have taken a decision shortly thereafter whether to refer the dispute for adjudication to the appropriate Labour Court/Industrial Tribunal or not. It is, therefore, not necessary to entertain the present petition any further.

The petition is, therefore, disposed of with liberty to apply in case of difficulty.

Rule is discharged. No orders as to costs.

(Akil Kureshi,J.)

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